



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION 5**

**77 WEST JACKSON BOULEVARD**

**CHICAGO, IL 60604-3590**

**VIA ELECTRONIC MAIL**  
**DELIVERY RECEIPT REQUESTED**

Gordon Glosser, EHS Manager  
Niagara LaSalle Corporation  
1412 150<sup>th</sup> Street  
Hammond, Indiana 46327

Re: Notice of Violation  
Niagara LaSalle Corporation  
Hammond, Indiana

Dear Mr. Glosser:

The U.S. Environmental Protection Agency is issuing the enclosed Notice of Violation (NOV) to Niagara LaSalle Corporation (Niagara LaSalle or you) under Section 113(a)(1) of the Clean Air Act, 42 U.S.C. § 7413(a)(1). We find that you are violating the Indiana State Implementation Plan at your Hammond, Indiana facility.

Section 113 of the Clean Air Act gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order and bringing a judicial civil or criminal action.

We are offering you an opportunity to confer with us about the violations alleged in the NOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply and the steps you will take to prevent future violations. In addition, in order to make the conference more productive, we encourage you to submit to us information responsive to the NOV prior to the conference date.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The EPA contact in this matter is Sarah Clark. You may call her at (312) 886-9733 to request a conference. You should make the request within 10 calendar days following receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter.

Sincerely,

Michael D. Harris  
Division Director  
Enforcement and Compliance Assurance Division

Enclosure

cc: Phil Perry, Chief, Air Compliance Branch  
Indiana Department of Environmental Management

Cynthia Faur, Quarles & Brady LLP, Counsel for Niagara LaSalle Corp.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

**IN THE MATTER OF:**

Niagara LaSalle Corporation  
Hammond, Indiana

Proceedings Pursuant to  
Section 113(a)(1) of the  
Clean Air Act, 42 U.S.C.  
§ 7413(a)(1)

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**NOTICE OF VIOLATION**

**EPA-5-20-IN-04**

**NOTICE OF VIOLATION**

The U.S. Environmental Protection Agency (EPA) is issuing this Notice of Violation under Section 113(a)(1) of the Clean Air Act, 42 U.S.C. § 7413(a)(1). EPA finds that Niagara LaSalle Corporation (Niagara LaSalle) is violating the Indiana State Implementation Plan (SIP), as follows:

**Statutory and Regulatory Background**

1. The Clean Air Act (CAA), 42 U.S.C §§ 7401, *et seq.*, and the regulations promulgated thereunder, establish a statutory and regulatory scheme designed to protect and enhance the quality of the nation's air so as to promote public health and welfare and the productive capacity of its population.
2. On November 5, 1981, EPA approved 325 Indiana Administrative Code (IAC) 1.1-1-27 (recodified to 326 IAC 1-2-27) as part of the federally enforceable SIP for Indiana. 46 Fed. Reg. 54943.
3. 326 IAC 1-2-27 defines "facility" as "any one (1) structure, piece of equipment, installation or operation which emits or has the potential to emit any air contaminant. Single pieces of equipment or installations with multiple emission points shall be considered a facility for the purpose of this rule."
4. 326 IAC 1-2-73 defines "source" as "an aggregation of one (1) or more stationary emissions units that are located on one (1) piece of property or on contiguous or adjacent properties are owned or operated by the same person (or by persons under common control) and belong to a single major industrial grouping."
5. On March 22, 2006, EPA approved 326 IAC Article 6.8, Particulate Matter Limitations for Lake County, including Rule 10, as part of the federally enforceable SIP for Indiana. 71 Fed. Reg. 14383. Rule 10 sets forth requirements for controlling fugitive particulate matter (PM) emissions in Lake County. On April 30, 2008, EPA approved revisions to 326 IAC Article 6.8. 73 Fed. Reg. 23356.

6. 326 IAC 6.8-1-1 states that sources or facilities located in Lake County shall comply with PM emission limits and meet the requirements specified under Article 6.8, including Rule 10.
7. 326 IAC 6.8-10-1(a) applies to the following “facilities and operations at a source having the potential to emit five (5) tons per year fugitive PM into the atmosphere in Lake County: (A) Paved roads and parking lots; (B) Unpaved roads and parking lots;...and (H) Any other facility or operation with a potential to emit fugitive PM and not included in this section.”
8. 326 IAC 6.8-10-2(1) defines “affected facilities” as “the sources of fugitive emissions listed in section 1(a) of this rule.”
9. 326 IAC 6.8-10-2(9) defines “fugitive PM” as “any PM emitted into the atmosphere other than through a stack.”
10. 326 IAC 6.8-10-2(14) defines “paved road” as “an asphalt or concrete surfaced thoroughfare or right-of-way designed or used for vehicular traffic.”
11. 326 IAC 6.8-10-2(21) defines “unpaved road” as “a thoroughfare or right-of-way other than a paved road designed or used for vehicular traffic.”
12. 326 IAC 6.8-10-3(1) states that, “For paved roads and parking lots, the average instantaneous opacity of fugitive particulate emissions from a paved road shall not exceed ten percent (10%). A source shall implement the control measures specified by section 4(3)(F) of this rule within twenty-four (24) hours after notification by the department or the U.S. EPA of violating the average instantaneous opacity limit.”
13. 326 IAC 6.8-10-3(2) states that, “The average instantaneous opacity of fugitive particulate emissions from an unpaved road shall not exceed ten percent (10%). The fugitive particulate emissions from unpaved roads shall be controlled by the implementation of a work program and work practice under the control plan required in section 4 of this rule.”
14. 326 IAC 6.8-10-4(1) states that “a source to which this rule applies shall submit a control plan that, when fully implemented, will achieve compliance with the applicable emission limitations stated in section 3 of this rule.”
15. 326 IAC 6.8-10-4(2) states that “a control plan, upon submittal to the department, shall become part of a source’s operating permit or registration conditions.”
16. 326 IAC 6.8-10-4(3) states that “control plans shall include the following information: ... (A) The name and address of the following: (i) the source and location, if the source is located on another source's property; (ii) if different from that of the source, the owner or operator responsible for the execution of the plan. (B) Identification of the facilities or operations listed in section 1(a)(1) of this rule and those affected by 326 IAC 6.8-2 through 326 IAC 6.8-7 that exist at the source. (C) A map showing the location of all of the following: (i) unpaved roads, (ii) paved roads, (iii) parking lots.... (D) A full

description of the facilities on the map, including the following information, where applicable: (i) the road lengths and widths, average daily traffic, surface silt loading, classification of vehicle traffic, and other data necessary to estimate PM10 emissions from paved and unpaved roads and parking lots.... (E) The description of the proposed control measures and practices that the source will employ to achieve compliance with the emission limitations and data that prove its effectiveness. (F) A list of the conditions that will prevent control measures and practices from being applied and alternative control practices and measures that will achieve compliance with the emission limitations; (G) A schedule for achieving compliance with the provisions of the control plan.

17. 326 IAC 6.8-10-4(4) states that “the source shall keep the following documentation to show compliance with each of its control measures and control practices: (A) A map or diagram showing the location of all emission sources controlled, including the: (i) location; (ii) identification; (iii) length; and (iv) width of roadways. (B) For each application of water or chemical solution to roadways, the following shall be recorded: (i) the name and location of the roadway controlled; (ii) application rate; (iii) the time of each application; (iv) the width of each application; (v) the identification of each method of application; (vi) the total quantity of water or chemical used for each application; (vii) for each application of chemical solution, the concentration and identity of the chemical; (viii) the material data safety sheets for each chemical. (C) For each application of physical or chemical control agents not covered by clause (B), the following: (i) the name of the agent; (ii) the location of the application; (iii) the application rate; (iv) the total quantity of agent used; (v) if diluted, the percent of concentration; (vi) the material data safety sheets for each chemical. (D) A log recording incidents when control measures were not used and a statement of explanation.

### **Factual Background**

18. Niagara LaSalle owns and operates a cold-finished steel processing plant (Niagara LaSalle Plant) at 1412 150<sup>th</sup> Street, Hammond, Indiana in Lake County.
19. The Niagara LaSalle Plant is a source as defined in 326 IAC 1-2-73.
20. The Niagara LaSalle Plant is located in Lake County.
21. According to Minor Source Operating Permit (MSOP) Number 089-38175-00220, issued on November 3, 2017, and most recently administratively amended on December 4, 2019, for the Niagara LaSalle Plant, the facilities and operations at the Niagara LaSalle Plant (specifically the paved roads) have the potential to emit five (5) tons per year fugitive PM into the atmosphere in Lake County.
22. The facilities and operations at the Niagara LaSalle Plant are subject to 326 IAC 6.8-10.
23. The facilities and operations at the Niagara LaSalle Plant are affected facilities as defined in 326 IAC 6.8-10-2(9).

24. Attachment A of the MSOP includes the “Fugitive Dust Control Plan” (FDCP) for the Niagara LaSalle Plant.
25. The FDCP is a two-page document that states: “Control Action: The active paved roadways will be watered and/or swept as specified in AP-42 (Chapter 13.2.1). Dust control will be performed as needed during operation which may result in fugitive dust.” The FDCP lists several methods of dust control. The FDCP states that: “‘As needed’ means the frequency or quantity of application necessary to minimize visible PM emissions. In the event that dust is observed leaving the site, suppression methods will be re-evaluated and modified accordingly.”
26. On December 21, 2017, EPA and the Indiana Department of Environmental Management (IDEM) inspected the Niagara LaSalle Plant.
27. During the December 21, 2017 inspection, while a semi-truck was exiting the plant through a bay door on the north side of the Niagara LaSalle Plant and traversing a paved road that intersects 150<sup>th</sup> Street (North Exit), an EPA inspector observed fugitive PM from the North Exit. The EPA inspector communicated this observation to Niagara LaSalle Plant personnel during the closing conference.
28. On October 30, 2018, EPA issued a Request for Information under Section 114 of the CAA to Niagara LaSalle.
29. On June 6, 2019, representatives from EPA and Niagara LaSalle met to discuss a Notice of Violation that EPA issued to Niagara LaSalle on May 7, 2019. During this conference, EPA requested that Niagara provide copies of any records maintained pursuant to 326 IAC 6.8-10-4(4) for the period from January 2018 through June 2019.
30. In its response received by EPA on July 8, 2019 (Response), Niagara LaSalle provided a map (Map) of the paved roads, unpaved roads, and parking lots at Niagara LaSalle Plant, required by 326 IAC 6.8-10-4(4)(A). The Map consisted of a block layout of the Niagara LaSalle Plant with hand-drawn solid lines marking paved roads, hand-drawn dotted lines marking unpaved roads, and text identifying parking lots. The Map did not identify the North Exit.
31. In the Response, Niagara LaSalle indicated that it did not apply any water, chemical solution, or other material to roadways at the Niagara LaSalle Plant during the period from January 2018 through June 2019 and that it did not have any records to provide pursuant to 326 IAC 6.8-10-4(4)(B) or (C).
32. In the Response, Niagara LaSalle indicated that there are no records of incidents where required control measures were not applied during the period from January 2018 through June 2019 and that it did not have any records to provide pursuant to 326 IAC 6.8-10-4(4)(D).

### **Violations**

33. Niagara LaSalle failed to identify in the FDCP all the facilities or operations listed in 326 IAC 6.8-10-1(a) and those affected by 326 IAC 6.8-2 through 326 IAC 6.8-7 that exist at the Niagara LaSalle Plant, in violation of 326 IAC 6.8-10-4(3)(B). Specifically, the FDCP identified only paved roads, whereas unpaved roads and parking lots also exist at the Niagara LaSalle Plant.
34. Niagara LaSalle failed to include a map in the FDCP that shows the location of all unpaved roads, paved roads, and parking lots, in violation of 326 IAC 6.8-10-4(3)(C). Additionally, the Map that Niagara LaSalle provided to EPA in its Response failed to show the location of all emission sources controlled, including the: (i) location; (ii) identification; (iii) length; and (iv) width of roadways, in violation of 326 IAC 6.8-10-4(4)(A).
35. Niagara LaSalle failed to include in the FDCP a full description of the paved and unpaved roads and parking lots, in violation of 326 IAC 6.8-10-4(3)(D).
36. Niagara LaSalle failed to include in the FDCP a description of the proposed control measures and practices, for unpaved roads and parking lots, that the Niagara LaSalle Plant will employ to achieve compliance with the emission limitations and data that prove its effectiveness, in violation of 326 IAC 6.8-10-4(3)(E). Additionally, the methods of dust control listed in the FDCP are not specific, and the term, “as needed,” used in the FDCP to describe the ‘frequency or quantity of application necessary to minimize visible PM emissions’ is not defined and therefore too vague to be meaningful.
37. Niagara LaSalle failed to include in the FDCP a list of the conditions that will prevent control measures and practices from being applied and alternative control practices and measures that will achieve compliance with the emission limitations, in violation of 326 IAC 6.8-10-4(3)(F).
38. Niagara LaSalle failed to maintain a log recording incidents when control measures were not used and a statement of explanation, in violation of 326 IAC 6.8-10-4(4)(D).

### **Environmental Impact of Violations**

39. These violations have caused or can cause excess emissions of PM. PM, especially fine particulates, contains microscopic solids or liquid droplets, which can get deep into the lungs and cause serious health problems. PM exposure contributes to irritation of the airways, coughing, and difficulty breathing, decreased lung function, aggravated asthma, chronic bronchitis, irregular heartbeat, nonfatal heart attacks, and premature death in people with heart or lung disease.

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Michael D. Harris  
Division Director  
Enforcement and Compliance Assurance Division